IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1655 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHARUBEN WD/O DINESHBHAI H PATEL

Versus

STATE OF GUJARAT

Appearance:

MR SURESH S PATEL for Petitioner

AJ DESAI, APP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 07/05/2002

ORAL JUDGEMENT

1. Learned advocate for the petitioner has submitted a copy of the complaint filed before the learned Chief Judicial Magistrate, at Mehsana in Criminal Case No.440 of 1999, which is taken on record. Despite the service

of rule, respondent No.2 has not appeared in response to the service of rule.

2. This is an application for transfer of Criminal Case No.440 of 1999 pending before the Chief Judicial Magistrate, at Mehsana against the contesting respondent for the offence under Section 138 of the Negotiable Instruments Act to Chief Judicial Magistrate at Ahmedabad [Rural]. The contention of the applicant is that she is already staying at Ahmedabad and it becomes very difficult to go to Mehsana for conducting her case. The contesting respondent has not appeared and, therefore, I do not have any defence on record from him. It appears from the complaint that the contesting respondent belongs to Mumbai and, therefore, it would be better if he would be required to come to Ahmedabad for conducting his case. In view of the above position, this application is allowed. The Criminal Case No.440 of 1999, pending before the learned Chief Judicial Magistrate, at Mehsana is ordered to be transferred on the file of the learned Chief Judicial Magistrate, at Ahmedabad [Rural] for trial according to law. The said Court will naturally give an intimation to the contesting respondent about the fact of the transfer of the case, with a view to enable the contesting respondent to remain present before the Court. R & P shall be returned to the concerned Court forthwith. Rule is made absolute accordingly.

[D.P.BUCH,J.]

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